

MINUTES

Lakefront Development Advisory Commission
Wednesday, October 15, 2014, 5:30 pm
Miller Room, O'Donnell Park
910 East Michigan Ave.
Milwaukee, WI 53202

Members present:

Chairman William Lynch
Laura Schloesser, representing John Dargle Jr.
Paul Vornholt representing Timothy K. Hoelter
Teig Whaley-Smith
Rocky Marcoux
Dan Bukiewicz representing Mayor Steve Scaffidi of Oak Creek
CoreyAnn St. Marie-Carls
Fernando Moreno representing Carl Kreuger of Brown Deer
Gerry Broderick
Nick Kovac
Dave Radtke
Kurt Mihelich
Henry Hamilton III
Patricia Jursik - left before vote

Chairman William Lynch called the meeting to order at 5:30 and asked for introductions.

Lynch: First we need to address the question of what is on the agenda.

Vice-Chair Whaley-Smith: I sought to add the sale of the County's Downtown Transit Center to Rick Barrett and Associates.

Lynch: As chair, I acted to deny based on a full agenda and to provide sufficient notice. Plus there was confusion between that topic and tonight's topic. The vice-chair thought he could add the item according to the by-laws authorizing him to act if the chair is absent or refuses to take action. The chair received the request and acted on it by rejecting it.

Whaley-Smith: I respectfully disagree. I move to include the public hearing on the Downtown Transit Center as part of tonight's agenda.

Marcoux: I second.

Broderick: I don't understand the urgency, the issues is not ripe for action. It will lend to confusion. I don't see the urgency.

Whaley-Smith: Plans for the Downtown Transit Center sale proposal were presented at the Sep 15, 2014 County Board meeting. The project is submitted to county for review in Oct. Don't use LDAC to delay the project. This economic development project needs to move forward.

Jursik: I'm the chair of the Community Economic Development Committee. We heard an informational item in September. We have not seen a final proposal. We haven't seen a vice chair pursue a matter in this manner. The September 10, 2014 meeting on the sale of O'Donnell was a 3-hour meeting. It makes sense to have these on separate meetings.

Radtke: O'Donnell is enough for one meeting and it would be short notice to the public on the Transit Center.

Marcoux: City of Milwaukee is involved in providing \$18 million in tax-incremental finance (TIF). It requires Redevelopment Authority of the City of Milwaukee and Zoning Neighborhoods, and Development Committee and Common Council action which will offer plenty of public involvement. The same people are interested in both proposals. It would have been easy enough to add the item. We had a budget hearing.

Lynch: There is no intention to slow things down, just not tonight. I discussed alternative dates with the developer. We could try to meet in next ten days, before the committees meet.

Kovac: I respect the chair. This is a practical matter. Err on the side of maximum public testimony. Let's hear it today to maximize public input.

Hamilton: I wasn't aware of this item being on the agenda for tonight.

Lynch: Where was it posted?

Whaley-Smith: On the County's website.

Radtke: I couldn't find it on the County web page.

Whaley-Smith: I didn't have access to the official LDAC web site.

Marcoux: If we can meet in next 10 days, before Oct 27, 2014, I'm willing to withdraw and ask Vice Chair to withdraw.

Jursik: The County is involved in budget deliberations. The latest proposal has a lot of new aspects. Transportation money might not have to be paid back as it would under previous proposals. I ask LDAC to respect the County to look at the proposal as it goes through it's normal process.

Whaley-Smith: If we can meet next week, I would withdraw the motion.

Lynch inquires as to member and developer availability. No date was ideal. The final proposed was Thursday, Oct 23 at 4:45. Place to be determined.

Whaley-Smith withdraws motion.

Agenda item #1. Public Hearing on sale of O'Donnell Park.

Note: The Commission had received, in advance of the hearing, the proponents' Request for Review and the 200-page-plus proposed purchase agreement and appendices which had been submitted by the County Economic Development Director to the County Board committees, the Task Force report on the sale, several prehearing submissions by opponents to the proposal, and a memo by the State Legislative Reference Bureau, "Wisconsin Constitution, Article IX, Section 1, THE PUBLIC TRUST DOCTRINE."

Lynch: We'll hear information from the proposers, those being NML and Milwaukee County. Charlie Kamp could present a consolidated presentation for opposition. Testimony cards should be filled out.

Steve Radke, NML public relations: NML is making a new commitment to Milwaukee with a \$0.5 billion new tower. We believe in Milwaukee. The tower spurred a new entranceway to the city. We intend to attract, engage, and retain the best talent to our new campus. O'Donnell Park is in need of TLC. NML has a 145 year history in Milwaukee. It has 1.1 million sf. of space. The new building will be 32 stories, 2nd highest in Wisconsin. The Commons will be two blocks long. The campus will retain 1100 jobs and add 1900 new jobs. Construction will be performed 25% by small enterprise and 40% by Milwaukee residents.

The project will result in a changed campus, welcoming in public. It will have 3 acres public gardens, a water feature. Prior to 1997 part of the campus was a park.

The O'Donnell project will benefit the community, Milwaukee County, and Northwestern Mutual. NML will take care of millions in deferred maintenance, activate the space, and take on ongoing maintenance.

The project includes structural repairs, addressing deferred maintenance issues, improved cleanliness, enhanced lighting to brighten the facility and improve the safety of the garage, and fresh paint and signage.

Parking analysis: Of the 1300 parking spaces, in 2017 NML will reserve 321. That number will grow to 706 in 2025. It will be open to the public on weekends.

The project will seek possible new ways to activate the greenspace. Provide on line apps for parking availability. Bike stations. Newaukee is involved and has received 200 suggestions. The project has support from local newspapers and UWM Dean of the School of Architecture and Urban Planning Robert Greenstreet.

Milwaukee County will be relieved of \$7 million of debt and another \$5 million for other purposes. The property will be on the tax rolls. A County Parks workgroup determined that the sale was the best financial alternative.

NML will provide a safe well-maintained parking structure and greenspace that reflects well on campus. NML has other parking alternatives. Local organizations are supportive. This project is about making O'Donnell better for NML and Milwaukee. Alternatives, such as leasing, are not attractive.

Lynch: LDAC is required to apply criteria that are part of the LDAC's mission. Are there questions?

Kovac: Are you committed to keep the public space public? What happens in the long term when you need to change it?

NML: It's zoned park. Current zoning requires a tweak for the current tenants. If and when the structure is obsolete, NNL will enter into a dialogue with stakeholders.

Broderick: Zoning can be changed. Could you develop it in the future? The County Parks committee will need to enforce the deeds restrictions. An enforceable guarantee would clear up a lot of concerns.

NML: We're reluctant to say no in the future, which is a long time.

Lynch: Proposal documents indicate that NML will have all the rights of owner to enforce behavior and to not replace and repair the facility.

NML: A balance is needed. Like a public shopping center, the public is welcome, but behavioral standards can be enforced.

Radtke: Can you explain the existing garden across from O'Donnell?

NML: We had an agreement to maintain it and eventually we discussed owning it. It had the same deed restrictions.

Charles Kamps, Preserve our Parks: The sale of a public park to a private party is a scary matter. It's been a park since 1868. Selling it fails to meet public trust, zoning, and state and county deed restrictions.

Public trust doctrine. Waterways are publically available and include filled in lake beds. Historic photos show that the railroad did a lot of filling in accordance with its charter. The railroad crosses water on a plat map. The dotted line is the old shoreline and it crosses through the site and the Transit Center to the south. The 1913 agreement line lies to the east. The City had a lake bed grant from the state, but it gave the RR the right to fill in to the western edge up to about the current N. Harbor Dr. Dozens of maps exist. The land, "Must be held by a public body." Zoning is also a consideration.

Deed restrictions. In 1936 the city turned 30 parks over to the county after a referendum. "County will operate and maintain said lands and improvements forever as public parks and parkways."

NML obligations can change with a change in zoning.

There are alternatives: NML can improve the park without owning it.

Does it comply with three LDAC criteria? No.

Jim Goulee, Parks People: Recommend rejection. Principle #4. Rezoning can result in private use. No provision in the sale agreement. Keeping it public should be in the agreement. NML can unilaterally negate public access. Principle 5. Unique qualities of lakefront. NML has said they have alternatives for parking.

Virginia Small, Milwaukee County resident: Parks are owned by the people. We have a 146 year legacy. Frederick Law Olmstead. The park dates back to 1868, 3 years after the civil war. This is not a sale to the highest bidder. Parks drive economic development. A park that is not public, is not necessarily a park. After this sale, the public will have no say in the park. This sale is not to preserve the lakefront.

Jamie Fershinger: Moved here in 2006. I lived downtown and the lakefront green space was an attraction for me. I trust the representatives to preserve it. I question the future of the park. I urge a true public / private partnership. NML can accomplish its goals without ownership.

Peggy Schulz, sister of Dave Schulz, former Parks Director: I published an editorial. Imagine coming east on Wis. Ave. and seeing a 30-story structure blocking the view of the art museum and the lake. Dave would ask: Who can provide services to the public best?

Greg Bird: Have a third meeting to consider the entire stretch along the public trust doctrine lands. Claims of structural problems have not been documented. The lakefront compares favorably to other Great Lakes. The restaurant is on the land side of the Public Trust lands line.

Edith McFadden, city taxpayer. I appreciate separating the issues. The Public Trust Doctrine principle is embedded in the state constitution. Having only one bidder is a violation of taxpayer trust. Only one company is interested? Investigate leaders for engaging in this dubious activity. NML filled out the request for review and some responses were concerning. They indicated as “not applicable” the changing of structures. Landscaping – not applicable. Traffic flow – not applicable. History – not applicable. All these things are applicable to keeping this parcel public.

Mary Smith: The views from O’Donnell are nice. Consider the 2012-2021 SEWRPC Long Range Public Space plan approved 2011. Conformity with plans is a criterion of LDAC. P. 83 Map 20. Environmental corridors and isolated environmental areas. Item 103 is O’Donnell park: “...comprise Lake Michigan north – a regional parkway.” P. 82, shows closely related sites.

Linda Keane: This meeting is informed consent and a great opportunity. We've seen no data that show this proposal increases eco-tourism, environmental education, etc. Chicago's Millennium park is going to double in size. This land is for park. Do the research. Look at the plans. This proposal is backward looking. Attract people, not cars. The buildings do not make a lakefront. Look at cities all over the world for the best examples: interactive, educational, activated. I haven't seen that in this proposal. Don't sell it off to a single steward.

Diane Dagelen, Wauwatosa, Sierra Club, Great Waters group: We park on the street so we can approach the Art Museum via O'Donnell and enjoy the vista. Have open bids. This should be worth \$60-\$70 million. NML was asked, would you put in writing that you would never develop it and the answer was they would rely on the zoning. The answer was essentially no. There is no written commitment or contractual language.

Pat Small, real estate investor, NML policy holder: I'm in favor of private and public land. Look at comparables. The Irgens property was \$105 / s.f. , that would be \$42 million for O'Donnell. In 1992 it cost \$36 million to build it. Total \$78 million. We will lose the revenue stream for a one-time payment of \$5 million.

John Lunz: Reference Richard Cutler's Greater Milwaukee's Growing Pains. Freeway plans were stopped by deed restrictions. Having only 300 public spaces in a 1300 space garage is a loss. NML should exercise its other options for parking.

Claude VanderVeen, Cudahy: Citizens approved a Parks referendum to adequately fund the park system, but the county board chose not to act despite maintenance issues. Let's get our house in order before we sell off our parks.

Note: In addition to those testifying, of those in attendance who were not on the commission and had not spoken but filled out cards indicating a preference: 7 were opposed, and 6 were in favor.

Marcoux: As Commissioner of the Milwaukee Dept. of City Development I've been heavily involved in negotiations on this project. There are no back room deals. Everything is brought forward to public bodies. Discussion of the tax incremental finance district was done in public. Parks are important. 22 acres of new park land have been created in the City of Milwaukee and 60 acres of stormwater land in Valley. Hank Aaron trail. Riverwalk has leveraged development employing public rights-of-way on private land. NML's commitment and stewardship is trustworthy. They've invested ½ billion dollars in Milwaukee. NML will be a great steward of O'Donnell Park. The new footbridge from O'Donnell to the proposed Couture building will make the lake more accessible. Parks can be privately owned. MSOE's new park is an example. There's no new development here.

Broderick: Can you (Marcoux) comment on the city possibly approving a future development on the site.

Marcoux: Changing zoning is not easy.

Lynch: We need to discuss the LDAC criteria. Many documents are available that have received little attention. Should we suspend our normal procedure of providing a 2-week comment period?

Whaley-Smith: I don't think there is a development proposal here.

I move to suspend LDAC procedures so that we can act on the matter of the sale of O'Donnell Park tonight instead of waiting two weeks for additional testimony; and to approve the following resolution:

WHEREAS, the Long Range Lakefront Committee Plan ("Lakefront Plan") was endorsed by LDAC on August 24, 2011; and

WHEREAS, the Lakefront Plan (p. 14) recommends O'Donnell Park and Parking Structure ("O'Donnell") retain its current function in the short-term with openness for redevelopment if desired in the future; and

WHEREAS, the State of Wisconsin, pursuant to Wis. Stats 30.2038, has confirmed that O'Donnell is entirely west of the land that is subject to lake bed grant restrictions; and

WHEREAS, whether a State action was proper is beyond the scope of LDAC review; and

WHEREAS, LDAC's purpose is to review whether "a development proposal should be approved;" and

WHEREAS, no development proposal has been made; now therefore

BE IT RESOLVED, that LDAC has reviewed the proposal by Northwestern Mutual related to O'Donnell and has determined that it is outside the scope of LDAC review and consequently has no recommendation."

Marcoux seconded.

Lynch: Take into consideration the option of development in the agreement after the life of O'Donnell Park structure. There is no requirement to maintain the pavilion. NML has the right to limit access to two bridges for special events. There is no building south of the parking structure along Michigan Ave. and some plans show a building on that site. The range of

potential new development falls within the purview of LDAC. There is a difference of opinion about the impact of the Public Trust Doctrine and although we're not a court, conforming to the Public Trust doctrine is a criterion. I am opposed to the motion. We could make a recommendation at a later date.

Kovac: I agree with the chair. It doesn't seem to be an urgent matter.

Whaley-Smith: The offer was presented in July. The County committees are ready to review. NML has a parking lot under construction and needs to accommodate parking, possibly by removing adjacent development. The County has more public hearing opportunities.

Broderick: Jursik had to leave. The timelines are artificial. We're talking about breaking all precedent, the Whitnals of the world are watching.

Kovac: I'd like to get some more guidance on whether this rises to development and under the purview of LDAC. If and when there is a proposal for development we should review it then.

Lynch: The private buyer has all the rights of the owner. They can replace the pavilion, or build an addition, or build on the south end of the parcel. LDAC does not review development on private land. The county will be out of the picture.

Kovac: I prefer to suspend the rules to take this up in a week. On the merits, I would hate to see more private parking downtown as a city representative.

Lynch: NML parking doesn't have to be on the lakefront. LDAC is supposed to look at the impacts on surrounding uses.

Marcoux: The County's sale does not void the City's underlying deed restrictions dating back to the transfer of the land from the City to County. One cannot comment on future actions of an elected body.

Lynch: We're just trying to do a conscientious job of giving advice. The city would need to modify the covenant prohibiting private ownership of the parcel and zoning to permit even the current uses.

Broderick: Don't we need a 2/3 vote to suspend rules? That's often the case.

Lynch: We've suspended rules with a simple majority. Usually they are unanimous.

Hamilton: This is two motions in one. One regards the rules. The second is the O'Donnell resolution.

Whaley-Smith: No 2/3 majority is required anywhere in the LDAC by-laws.

Lynch: The Long Range Lakefront plan discussed removing the top level of the O'Donnell parking structure. Private ownership is not consistent with it.

Whaley-Smith: Call the motion.

The motion passed 7-6 on a roll call vote.

Laura Schloesser, representing John Dargle Jr. - Y

Paul Vornholt, representing Timothy K. Hoelter - Y

Teig Whaley-Smith - Y

Rocky Marcoux - Y

Dan Bukiewicz representing Steve Scaffidi of Oak Creek – Y

CoreyAnn St. Marie-Carls - Y

Fernando Moreno representing Carl Kreuger of Brown Deer - Y

Chairman William Lynch - N

Gerry Broderick - N

Nick Kovac - N

Dave Radtke - N

Kurt Mihelich - N

Henry Hamilton III - N

Patricia Jursik - left before the vote

Whaley-Smith moved to adjourn. Lynch called the meeting to a close at about 9:00 p.m.